

## Bias-Motivated Crimes

### 319.1 PURPOSE AND SCOPE

The Hudson Police Department recognizes and places a high priority on the rights of all individuals guaranteed under the Constitution and the laws of this state. When such rights are infringed upon by violence, threats or other harassment, this department will utilize all available resources to see that justice is served under the law. This policy has been developed to meet or exceed the provisions of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, and provides members of this department with guidelines for identifying and investigating incidents and crimes that may be motivated by hatred or other bias.

### 319.2 DEFINITIONS

Definitions related to this policy include:

**Bias-motivated crime** - Willfully committing a crime against another because the actual or perceived race, color, religion, national origin or ancestry, physical or mental disability or sexual orientation of the victim was different from that characteristic of the perpetrator.

### 319.3 CRIMINAL STATUTES

- (a) Wis. Stat. § 943.012 - A person is guilty of a Class I felony when such a person intentionally causes criminal damage to or graffiti on:
  - 1. Any church, synagogue or other building, structure or place primarily used for religious worship or another religious purpose.
  - 2. Any cemetery, mortuary or other facility used for burying or memorializing the dead.
  - 3. Any school, educational facility or community center publicly identified as associated with a group of persons of a particular race, religion, color, disability, national origin or ancestry or by an institution of any such group.
  - 4. Any personal property contained in any of the properties in items 1, 2, or 3 above if the personal property has particular significance to any group of persons of a particular race, religion, color, disability, national origin or ancestry.
- (b) Wis. Stat. § 939.645 - Enhances the penalty for offenses where the victim is selected because of the offender's belief or perception regarding the race, religion, color, disability, sexual orientation, national origin or ancestry of the victim.
- (c) 18 USC § 245 - Federal law also prohibits discrimination-based acts and may be considered in addition to or in lieu of state law depending on circumstances.

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### **319.4 PROCEDURE FOR INVESTIGATING BIAS-MOTIVATED CRIMES**

Whenever any member of this department receives a report of a suspected bias-motivated crime or other activity that reasonably appears to involve a potential bias-motivated crime, the following should occur:

- (a) Officers will be promptly assigned to contact the victim, witness or reporting party to investigate the matter further as circumstances may dictate.
- (b) A supervisor should be notified of the circumstances as soon as practicable.
- (c) Once "in progress" aspects of any such situation have been stabilized (e.g., treatment of victims or apprehension of present suspects), the assigned officers will take all reasonable steps to preserve available evidence that may tend to establish that a bias-motivated crime was involved.
- (d) The assigned officers will interview available witnesses, victims and others to determine what circumstances, if any, indicate that the situation may involve a bias-motivated crime.
- (e) Depending on the situation, the assigned officers or supervisor may request additional assistance from investigators or other resources to further the investigation.
- (f) The assigned officers will include all available evidence indicating the likelihood of a bias-motivated crime in the relevant reports. All related reports will be clearly marked as "Bias-Motivated Crimes" and, absent prior approval of a supervisor, will be completed and submitted by the assigned officers before the end of the shift.
- (g) The assigned officers should also make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as required by the Victim and Witness Assistance Policy.
- (h) The assigned officers and supervisor should take reasonable steps to ensure that any such situation does not escalate further and should provide information to the victim regarding legal aid, e.g., a possible Temporary Restraining Order through the courts or District Attorney.

### **319.5 INVESTIGATION DIVISION RESPONSIBILITIES**

If a case is assigned to the Investigation Division, the assigned investigator will be responsible for following up on the reported bias-motivated crime by:

- (a) Coordinating further investigation with the District Attorney and other appropriate law enforcement agencies.
- (b) Maintaining contact with the victim and other involved individuals, as needed.
- (c) Maintaining statistical data and tracking of suspected bias-motivated crimes as indicated or required by state law.

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#### 319.5.1 STATE BIAS-MOTIVATED CRIME REPORTING

This department shall submit bias-motivated crime information and offenses through Wisconsin's Uniform Crime Reporting (UCR) program at regular intervals as prescribed by rules adopted by the Wisconsin Office of Justice Assistance (OJA). This department will only report a bias-motivated crime when an investigation reveals sufficient evidence that an offender's actions were motivated, in whole or in part, by his/her bias. This shall be conducted by the Records Supervisor or assigned to the Investigation Division.

#### 319.5.2 FEDERAL BIAS-MOTIVATED CRIME REPORTING

The Records Supervisor should include bias crime data reporting within the National Incident Based Reporting System (NIBRS), Uniform Crime Report (UCR) and Summary Reporting System (SRS) reports pursuant to Records Division procedures and in compliance with (28 USC § 534(a)).